

any other agencies involved, to discuss the action and opportunities for resolving any disagreements. If a Federal agency decision is also inconsistent with a Council recommendation made pursuant to section 305(b)(3) of the Magnuson-Stevens Act, the Council may request that the Assistant Administrator initiate further review of the Federal agency's decision and involve the Council in any interagency discussion to resolve disagreements with the Federal agency. The Assistant Administrator will make every effort to accommodate such a request. NMFS may develop written procedures to further define such review processes.

(1) *Supplemental consultation.* A Federal agency must reinstitute consultation with NMFS if the agency substantially revises its plans for an action in a manner that may adversely affect EFH or if new information becomes available that affects the basis for NMFS' EFH Conservation Recommendations.

§ 600.925 NMFS' EFH Conservation Recommendations to Federal and state agencies.

(a) *General.* Under section 305(b)(4)(A) of the Magnuson-Stevens Act, NMFS is required to provide EFH Conservation Recommendations to Federal and state agencies for actions that would adversely affect EFH. NMFS will not recommend that state or Federal agencies take actions beyond their statutory authority.

(b) *Recommendations to Federal agencies.* For Federal actions, EFH Conservation Recommendations will be provided to Federal agencies as part of EFH consultations conducted pursuant to § 600.920. If NMFS becomes aware of a Federal action that would adversely affect EFH, but for which a Federal agency has not initiated an EFH consultation, NMFS may request that the Federal agency initiate EFH consultation, or NMFS will provide EFH Conservation Recommendations based on the information available.

(c) *Recommendations to state agencies—*
(1) *Establishment of procedures.* The Magnuson-Stevens Act does not require state agencies to consult with the Secretary regarding EFH. NMFS will use existing coordination procedures or es-

tablish new procedures to identify state actions that may adversely affect EFH, and to determine the most appropriate method for providing EFH Conservation Recommendations to state agencies.

(2) *Coordination with states on recommendations to Federal agencies.* When an action that would adversely affect EFH is authorized, funded, or undertaken by both Federal and state agencies, NMFS will provide the appropriate state agencies with copies of EFH Conservation Recommendations developed as part of the Federal consultation procedures in § 600.920. NMFS will also seek agreements on sharing information and copies of recommendations with Federal or state agencies conducting similar consultation and recommendation processes to ensure coordination of such efforts.

(d) *Coordination with Councils.* NMFS will coordinate with each Council to identify the types of actions on which Councils intend to comment pursuant to section 305(b)(3) of the Magnuson-Stevens Act. For such actions NMFS will share pertinent information with the Council, including copies of NMFS' EFH Conservation Recommendations.

§ 600.930 Council comments and recommendations to Federal and state agencies.

Under section 305(b)(3) of the Magnuson-Stevens Act, Councils may comment on and make recommendations to the Secretary and any Federal or state agency concerning any activity or proposed activity authorized, funded, or undertaken by the agency that, in the view of the Council, may affect the habitat, including EFH, of a fishery resource under its authority. Councils must provide such comments and recommendations concerning any activity that, in the view of the Council, is likely to substantially affect the habitat, including EFH, of an anadromous fishery resource under Council authority.

(a) *Establishment of procedures.* Each Council should establish procedures for reviewing Federal or state actions that may adversely affect the habitat, including EFH, of a species under its authority. Each Council may receive information on actions of concern by methods such as directing Council staff